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10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 SOUTHERN DIVISION

14 UNITED STATES OF AMERICA,
15 Plaintiff,
16 v.
17 RICHARD O'CONNOR,
18 Defendant.
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20
21

No. SA CR 23-27-DOC

GOVERNMENT'S RESPONSE TO
DEFENDANT'S SUPPLEMENTAL BRIEF RE:
SENTENCING

Hearing Date: February 5, 2024
2:00 p.m.

22 Plaintiff United States of America, by and through its counsel
23 of record, the United States Attorney for the Central District of
24 California and Assistant United States Attorney Melissa Rabbani,
25 hereby submits its response to defendant's supplemental brief
26 regarding sentencing, filed by defendant Richard O'Connor on January
27 13, 2024.

28 Based on defendant's representations and the specific and unique

1 circumstances of this particular case, the government is agreeable to
2 applying a three-level adjustment under U.S.S.G. § 2G2.2(b)(7)(B),
3 rather than a five-level adjustment under U.S.S.G. § 2G2.2(b)(7)(D),
4 for the number of images and videos at issue in this case.

5 The parties agree that defendant is in criminal history category
6 one. In its original sentencing position filed on December 11, 2023,
7 the government argued that the total offense level in this case is
8 28, resulting in a Guidelines range of 78 to 97 months. With a
9 three-level adjustment under U.S.S.G. § 2G2.2(b)(7)(B) applied,
10 rather than a five-level adjustment under U.S.S.G. § 2G2.2(b)(7)(B),
11 the government believes the total offense level in this case is now
12 26, resulting in a Guidelines range of 63 to 78 months.

13 However, the government's ultimate recommendation remains
14 unchanged. Whether or not defendant knowingly clicked on or viewed
15 each and every video and image found in his iCloud account, the fact
16 remains that, by defendant's own admission, he joined at least three
17 chat groups, with "hundreds of participants," that exchanged images
18 and videos of child pornography. Dkt. 38 at 5. Defendant admits to
19 having viewed at least three such videos, though there is no question
20 that many more images and videos were circulated. See id. Based on
21 the nature, circumstances, and seriousness of this offense, and
22 defendant's own history and characteristics, the government
23 respectfully recommends that the Court apply what now amounts to a
24 smaller variance and sentence defendant to 60 months' custody,
25 followed by a lifetime period of supervised release. The government
26 additionally recommends that the Court impose a mandatory special
27 assessment of \$100, an additional assessment of \$5,000 under the
28 JVTA, an additional assessment of \$10,000 under the AVAA, and a fine

1 of \$35,000, as set forth in the government's initial sentencing
2 position.

3 Dated: January 18, 2024

Respectfully submitted,

4 E. MARTIN ESTRADA
United States Attorney

5 MACK E. JENKINS
6 Assistant United States Attorney
7 Chief, Criminal Division

8 /s/ Melissa S. Rabbani
9 MELISSA S. RABBANI
Assistant United States Attorney

10 Attorneys for Plaintiff
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